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PR Docket No. ~~92-78~~ DEPARTMENT OF COMMERCE  
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The National Association of Business and Educational Radio, Inc. ("NABER"), through counsel and pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. §1.415, hereby respectfully submits its Reply Comments in response to the Comments filed in the above-referenced proceeding.

The Comments of Celpage, Inc. ("Celpage"), Paging Network, Inc. ("PageNet"), PacTel Paging ("PacTel") and Mitchell Energy and Development ("Mitchell"), each a major user of private radio spectrum, recognize the importance of frequency coordination to the effective management of the radio spectrum below 800 MHz. Each company, concerned with efficient use of spectrum and how it affects their company's growth and prosperity, have become intimately involved in the frequency coordination process. Celpage, PageNet and PacTel are familiar with the inefficiencies of common carrier licensing, where licensees do not account for their use of spectrum (except to add frequencies), while Mitchell

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is familiar with the difficulties of operating a significant two-way radio facility in a shared environment. Thus, NABER suggests that the Commission consider their Comments carefully.

For its part, NABER has now had six (6) years of experience with the private carrier form of licensing in the bands below 800 MHz. While private carriers have only recently begun to be introduced into the other private radio services below 800 MHz, the Business Radio Service has been licensing two-way private carrier and PCP systems for six years. Therefore, NABER believes that its initial Comments bring a particularly knowledgeable view to this proceeding, and NABER requests that the Commission closely examine NABER's experience with private carrier systems related in the Comments.

**A. Private Carrier Paging System Licensing Requirements**

As the Comments of PacTel, Celpage and PageNet make clear, there is no need for end user lists for Private Carrier Paging ("PCP") systems. However, the three Commentors make clear to the Commission that there must be a mechanism by which PCP systems account for spectrum utilization. The question which must be answered in this proceeding is how to inform the Commission and the frequency advisory committee that a certain amount of air time is being utilized (and that the system is in operation) in a timely manner. Thus far, the discussions have concerned user lists and license modifications.

It is NABER's view that the number of pagers on the PCP system license is not dispositive. A PCP licensee is currently required

to estimate the number of pagers which it expects to place on the air within eight (8) months. If the licensee is successful, the number is usually quickly eclipsed; if business does not progress as expected, the pager count overestimates the amount of airtime used. In either case, a realistic assessment of spectrum utilization is not achieved. Thus, while the initial estimation of units to be placed in operation during the first eight (8) months is important, and should continue, there is a need for updating of this information on a periodic basis.

Similarly, annual user lists provide a certain amount of information which is unnecessary to the frequency coordinator. Specifically, information regarding the identity of users or their business does not yield useful information regarding the amount of airtime used by a paging system. Since all paging transmissions in the same paging format are the same length, knowing whether the user is a courier or a doctor does not advance the frequency coordination process.

The most significant piece of information which can be provided by a PCP licensee and which will improve the coordination process is a list of the number of units and the paging format. As related in NABER's initial Comments, this list supplies a relatively accurate picture of spectrum utilization. While airtime studies such as proposed by PacTel are helpful, they are time consuming for a PCP licensee to prepare and are only necessary when there is a dispute as to whether a particular paging channel can accommodate another system. However, the number of units and

paging format information needs to be supplied on a regular basis in order to measure growth and ensure that the system remains operational.

The Commission should require a report to be filed with the application, at the eight month construction benchmark, and annually thereafter, which lists the number of users by paging format.<sup>1</sup> This list, which PCP licensees recognize is not a significant burden,<sup>2</sup> will provide information which is current enough to provide useful information for the frequency coordination process. Lists filed after the list included with the original application can be provided to the Commission, with a copy served by the licensee to the relevant coordinator at the time of filing, or directly to the coordinator.<sup>3</sup> NABER anticipates that it can enter this information into its data base for no additional fee. As a result, PCP licensees and the Commission can save substantial resources from eliminating the need to file modification strictly for unit changes.<sup>4</sup>

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<sup>1</sup>The list filed with the original application would be for the number of units and paging format estimated to be placed in operation during the initial eight months.

<sup>2</sup>See, for example, the Comments of PageNet at 7.

<sup>3</sup>The end user counts should be certified by the licensee. Further, the Commission should have an explicit enforcement mechanism in place for licensees which fail to file the required updates. In this regard the frequency coordinator should be required to provide the Commission with the list of licensees that fail to file updates.

<sup>4</sup>This would also eliminate the need for a "short-form" modification as suggested by PacTel.

## **B. Two-Way System Loading and Licensing Information**

### **1. Two-Way Private Carriers**

NABER also believes that the Commission make identical rule changes for two-way private carriers. Although having information regarding the type of users is extremely useful in the frequency coordination process for two-way systems (as different types of users utilize differing amounts of two-way airtime), it appears that some two-way private carrier licensees are willing to sacrifice improved frequency coordination for confidentiality.<sup>5</sup>

### **2. Two-Way License Modifications**

It also appears that a number of Commentors believe that the Commission's proposal to require two-way system license modifications for mobile unit increases at a 20% benchmark is acceptable.<sup>6</sup> NABER's request that private carrier systems not be licensed for a specific number of mobile units and report loading on an annual basis would eliminate the modification requirement for many two-way licensees. For two-way single user and community repeater systems which would remain licensed for a specific number of mobile units, the 20% benchmark would be acceptable, provided

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<sup>5</sup>See, for example, Comments of Columbia Communications, Inc., et. al. at page 3.

<sup>6</sup>See, for example, Comments of the Special Industrial Radio Service Association, Inc. ("SIRSA") at 7; Associated Public-Safety Communications Officers, Inc. ("APCO") at 2; Utilities Telecommunications Council at 5 ("UTC").

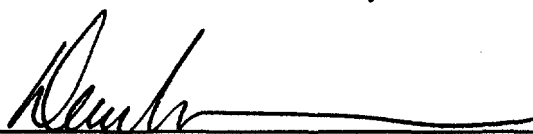
that modification applications are provided to the coordinator in order to maintain an accurate, up-to-date database.<sup>7</sup>

## II. CONCLUSION

WHEREFORE, the National Association of Business and Educational Radio, Inc. respectfully requests that the Commission act in accordance with the views expressed herein.

Respectfully submitted,

NATIONAL ASSOCIATION FOR BUSINESS  
AND EDUCATIONAL RADIO, INC.

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<sup>7</sup>See NABER's initial Comments for a thorough discussion of the importance of frequency coordination for such applications.